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September 10, 2021

VIA ECF and Overnight Mail

Honorable Denise L. Cote, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street, Room 1910
New York, New York 10007

Re: 605 Fifth Property Owner, LLC v. Abasic, S.L.
Case No.: 21-cv-00811-DLC

Dear Judge Cote:

We represent Plaintiff, 605 Fifth Property Owner, LLC ("Plaintiff"), in the above referenced action. The action seeks to enforce a commercial lease guaranty. By Decision and Order dated June 30, 2021, Hon. Judge Vernon S. Broderick granted Defendant Abasic S.L.'s ("Defendant") motion to stay this action pending the outcome of an appeal to this Court (the "Appeal") by Defendant's subsidiary (the underlying tenant), NTS W. USA Corp., ("DUSA"), from the final judgment of Bankruptcy Court, Southern District of New York (the "Final Judgment"), dismissing DUSA's claim that the lease between Plaintiff and DUSA should be canceled or that rent due under the lease should be abated or deferred under the doctrines of frustration of purpose or impossibility of performance of the lease (the "Stay Order," ECF Doc No. 26).

The Stay Order found that a stay of this action was warranted pending the outcome of the Appeal "to foster judicial economy and to protect the parties from the vexation of concurrent litigation over the same subject matter," and directed the parties to submit letters providing their respective positions of how a decision on the Appeal affects this action and the Stay Order. *See id.* at 8-9.

The Appeal was decided in favor of Plaintiff, by Decision and Order (Seibel, J.), dated September 9, 2021, a copy of which (and the Judgment dismissing the Appeal) is annexed hereto, in which the Court affirmed the Final Judgment in its entirety and directed the Clerk to close the Appeal (the "Order on Appeal"). Based on the Order on Appeal and affirmance of the Final Judgment, we respectfully submit that the basis for the stay under the Stay Order is now moot, and request that the stay be vacated, and that the Court set the matter down for an initial case management conference at its earliest convenience.

*The stay is lifted. The parties
shall appear in Courtroom 1813
for a conference on 9/15 at
3:30 pm.*
Encl.
cc: All Counsel (Via ECF and email)

Respectfully submitted,

Jay B. Solomon
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Denise Cote
9/10/21